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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,842	09/18/2003	Jayant R. Kalagnanam	YOR920030280US1 (8728-638)	4870
46/669 7590 04/20/2009 F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797				
EXAMINER FLEISCHER, MARK A				
ART UNIT 3624		PAPER NUMBER		
MAIL DATE 04/20/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/664,842

Applicant(s)

KALAGNANAM ET AL.

Examiner

MARK A. FLEISCHER

Art Unit

3624

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Bradley B Bayat/
Supervisory Patent Examiner, Art Unit 3624

/Mark A Fleischer/
Examiner, Art Unit 3624

Continuation of 11, does NOT place the application in condition for allowance because:

Applicant's argue that the teachings of the prior art (Ahmed, Bichler and Santos) do not teach "tactical level decision making" (Remarks, p.9). Applicant further provides the example of what they mean by a "tactical decision": a "recommendation for whether to accept an order for at least one of the multiple products at a time when demand exceeds a planned sales volume" (Remarks, p.9). Examiner respectfully disagrees with Applicant and notes that Santos specifically addresses this issue. Santos, in [0078-80] specifically refers to "make and sell decisions" based on accounting for "demand uncertainty". More specifically, Applicant's argue that the prior art does not "make a specific determination 'at a time when demand exceeds a planned sales volume'". Examiner respectfully disagrees with Applicant and notes that Santos specifically addresses this issue. Santos, in [0078-80] specifically refers to "make and sell decisions" based on accounting for "demand uncertainty". For example, Bichler [p.289] describes a situation where "demand exceeds supply" and on p.291 further describes issues relating to procurement management which concerns anticipated demand. Moreover, the typical and well-discussed element of what to do in a situation where demand exceeds supply is clearly contemplated also on p.291 regarding "supply chain coordination" and also "inventory management" and on p.292 states "Because demand and supply planning have inventory implications for all parties in the chain, pricing policies to eliminate unwanted inventories will have to be coordinated across all parties as well." Finally, Applicant's state that "Referring to Claim 11 [...] As an initial matter, Applicants note that this instance of Official Notice if being taken for the first time under final rejection." (Remarks, p.11) Applicant however fails to point out that claim 11 was amended before the Final Rejection issued and that the Official Notice pertained to the claim as amended and is as appropriate as the amended claim is obvious. Regarding the issue of confidence intervals, Applicant argues that Examiner "is relying on personal knowledge to support the findings of what is known in the art..." (Remarks, p.11) Examiner notes that any Official Notice germinates from personal knowledge and that, as stated in the Final Rejection, there are ample reference pertaining to confidence intervals in connection with supply chain management, service levels, inventory levels and so forth and would therefore have been obvious to apply to "realized order data" as indicated in the Final Rejection.